

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

JEFFREY LEE ENGLAND,

Plaintiff,

v.

CIVIL ACTION NO. 5:04-0800

AUSTIN POWDER TRANSPORTATION COMPANY,
an Ohio corporation,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Defendant Austin Powder Transportation Company's motion for an Order authorizing and directing the West Virginia Department of Health and Human Services, Bureau of Children and Families ("Bureau"), to produce, for an *in camera* inspection, any file maintained by the Bureau concerning any complaint or referral with regard to Plaintiff Jeffrey Lee England involving, directly or indirectly, allegations made prior to August 15, 2002, concerning Plaintiff's inability to manage or control his anger in dealing with his former wife, or in dealing with his children, or both. Having reviewed Defendant's motion, and after receiving no response from Plaintiff, the Court finds that such disclosure is appropriate and may be ordered by the Court pursuant to West Virginia Code 49-7-1.¹ Therefore, the Court **ORDERS** the Bureau to file **on or**

¹West Virginia Code 49-7-1 provides, in part:

(a) Except as otherwise provided in this chapter or by order of the court, all records and information concerning a child or juvenile which are maintained by the division of juvenile services, the department of health and human resources, a child

(continued...)

before September 9, 2005, any such relevant information regarding Jeffrey Lee England with the Court. The Court **DIRECTS** the Bureau to redact the names of all children and any complainant from any documents subject to this Order and to file such information with the Court **UNDER SEAL**.² Following an *in camera* inspection of the material, the Court will inform the parties whether it believes there is any information relevant to the issue of Plaintiff's allegation that he

¹(...continued)

agency or facility, court or law-enforcement agency shall be kept confidential and shall not be released or disclosed to anyone, including any federal or state agency.

(b) Notwithstanding the provisions of subsection (a) of this section or any other provision of this code to the contrary, records concerning a child or juvenile, except adoption records, juvenile court records and records disclosing the identity of a person making a complaint of child abuse or neglect shall be made available:

* * *

(4) Pursuant to an order of a court of record: Provided, That the court shall review such record or records for relevancy and materiality to the issues in the proceeding, and may issue an order to limit the examination and use of the records or any part thereof.

W. Va. Code 49-7-1, in part.

²The Court requests that a courtesy copy be sent to the following address:

The Honorable Robert C. Chambers
United States District Judge
P.O. Box 1570
Huntington, W. Va. 25716

suffers from anger-management problems. If such information is found, the Court will provide counsel copies of the relevant information, with any redactions and/or limitations of use the Court finds are necessary.

The Court **DIRECTS** the Clerk to send a copy of this written Opinion and Order to counsel of record; Margaret Waybright, Commissioner of Bureau of Children and Families; and any unrepresented parties.

ENTER: August 29, 2005

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE